

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BOSTON SCIENTIFIC CORPORATION and)	
BOSTON SCIENTIFIC SCIMED, INC.,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 07-333-SLR
)	
JOHNSON & JOHNSON, INC. and)	
CORDIS CORPORATION,)	
)	
Defendants.)	

DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME

Defendants Johnson & Johnson, Inc. and Cordis Corporation ("defendants") hereby respectfully move, pursuant to Federal Rule of Civil Procedure 6(b), for a 30-day extension of the deadline by which their response to the complaint is due in the above action. In support of this motion, the following is asserted:

1. This is a patent case in which plaintiffs' declaratory judgment complaint was filed on May 25, 2007 and was served on May 29, 2007. Defendants' responsive pleading therefore is due on June 18, 2007. There have been no prior extensions of this deadline.

2. On Tuesday June 12, 2007, defendants' counsel telephoned plaintiffs' counsel to request the 30-day extension of the June 18, 2007 deadline that is the subject of this motion. Later that day, plaintiffs' counsel inquired via e-mail as to the reason for the request, and within a few hours, defendants' counsel responded that three of the attorneys at Sidley Austin who will be representing defendants are deeply involved in preparing for a trial that starts in July, and that as a result, the current answer deadline creates a hardship from which they would appreciate relief.

3. When by the end of the day on Wednesday June 13 there had been no response, defendants' counsel sent a follow-up message inquiring as to the status of the request. On Thursday morning, June 14, plaintiffs' Delaware counsel responded: "I have forwarded your request to my co-counsel and will let you know as soon as I hear." There was no further response on June 14.

4. On Friday June 15 defendants heard for the first time that plaintiffs do not object to the requested extension, subject to a condition. Specifically, plaintiffs are aware that in a declaratory judgment action against these same defendants by Abbott Laboratories and Advanced Cardiovascular Systems, Inc., C.A. No. 06-613-SLR ("Abbott"), defendants have moved to dismiss for lack of subject matter jurisdiction. Plaintiffs speculate that defendants may file a similar motion in this case, and if they are correct, they do not want the motion in Abbott to be decided without the Court having the chance to consider their position in connection with any jurisdictional motion that may be filed in this case. They therefore will agree to defendants' requested extension in this case only if defendants will agree to request that the Court not decide the Abbott motion to dismiss (which is now fully briefed) until the completion of briefing on any similar future motion by defendants in this case. They are willing to agree to a two-day extension to allow defendants additional time to determine how they will respond to the complaint in this case, but they will not agree to the requested 30-day extension absent a commitment to seek the Court's agreement to forgo action on the Abbott motion until any similar motion in this case has been filed and fully briefed. A further inquiry by defendants on Monday June 18, to see if plaintiffs would reconsider their position and avoid the need for motion practice, also was unsuccessful.

5. The Abbott case and this case do not involve the same patents, defendants' counsel at this point truly do not know how they will respond to the complaint in this case, and

defendants' counsel will not be in a position to make that determination in anywhere close to two days from now – which is why they have requested a 30-day extension. Defendants respectfully submit that it is unreasonable for plaintiffs to attach such conditions to a routine extension request that is reasonable on its face, and to which plaintiffs otherwise appear to have no objection.

WHEREFORE, defendants respectfully request that the Court enter the attached form of order, extending their deadline to respond to the complaint until July 18, 2007.

ASHBY & GEDDES

/s/ Steven J. Balick

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Dated: June 18, 2007

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Defendants.)	

ORDER

This _____ day of _____, 2007, the Court having considered defendants' motion for enlargement of time seeking a 30-day extension of the deadline by which they must respond to the complaint in the above action, and the Court having concluded that good grounds exist for the requested relief; now therefore,

IT IS HEREBY ORDERED that the foregoing motion is granted, and that defendants' deadline to answer, move, or otherwise respond to the complaint in this action is extended through and including July 18, 2007.

Chief Judge

CERTIFICATION PURSUANT TO LOCAL RULE 7.1.1

I hereby certify that prior to the filing of the attached motion, defendants' counsel discussed the requested relief with plaintiffs' counsel, but that no agreement could be reached.

/s/ Steven J. Balick

Steven J. Balick